

Upper Clark Fork River Basin Steering Committee

Meeting Summary

May 15, 2006

Introductions

Gerald Mueller and members of the Upper Clark Fork River Basin Steering Committee (Steering Committee) introduced themselves. Those in attendance included:

Members	Group/Organization Represented
Bob Benson	Clark Fork Coalition
Brent Mannix	North Powell Conservation District
Stan Bradshaw	Trout Unlimited
Doug Martin	Natural Resource Damage Program (NRDP)
Jim Dinsmore	Granite Conservation District
Jules Waber	Powell County
Guests	
Jody Miller	United States Forest Service (USFS)
Eric Johnston	USFS
Faye Bergan	Reserved Water Rights Compact Commission
Staff	
Mike McLane	DNRC
Gerald Mueller	Facilitator

Agenda

- Review of the April 19, 2006 Meeting Summary
- Updates
 - Montana Watershed Stewardship Award
 - EQC Presentation
 - Basin Water Supply Update
 - Flint Creek Watershed Committee
 - Upper Clark Fork River Flow Story
 - DNRC Working Group Surface and Ground Water Interaction Working Group
- State-USFS Reserved Water Rights Compact and Upper Clark Fork River Basin Closure
- Steering Committee Work Plan
- Steering Committee Membership
- Public Comment
- Next Meeting

April 19, 2006 Meeting Summary

The Steering Committee made no changes to the meeting summary.

Updates

Montana Watershed Stewardship Award - Gerald Mueller reminded the Steering Committee that the Montana Coordinating Council will award its *2006 Montana Watershed Stewardship Award* to the Steering Committee on May 16, 2006 in the Capitol Rotunda. The award will be preceded by Mr. Mueller's presentation of the Steering Committee's accomplishments over its first fifteen years. The post-adjudication paper will be discussed by an afternoon panel that will include Holly

Franz representing the Steering Committee.

EQC Presentation - On Friday, May 19 at 1:00 p.m., Gerald Mueller and Mike McLane will present the Steering Committee's post-adjudication paper entitled "How Will Completion of the Adjudication Affect Water Management in Montana?" to the Environmental Quality Council.

Basin Water Supply - Mike McLane provided the update using a Power Point presentation which is attached to this summary. Data in his presentation were taken from the May 1, 2006 Basin Outlook Report. Highlights of his presentation follow.

Snow Pack – Water Content	Water Year Precipitation	Upper Clark Fork Conditions
■ Statewide	■ Statewide	May 1- Snow Pack
○ Near average @ 97%	– 111% of average	Snow Water Content
○ About 155% of 2005	– 143% of 2005	■ Increased 1% in April
■ In Columbia River Basin	■ In Columbia River Basin	■ 98% of average
○ 100% of average	– 106% of average	■ 155% of 2005
○ 178% of 2005	– 143 % of 2005	
■ Missouri	■ East of Divide	
○ 100 % average	– 116 % average	
○ 143% of 2005	○ 144% of 2005	
■ Yellowstone		
– 71% Average		
– 100% of 2001		

Upper Clark Fork Conditions
Snow pack Analysis – May 1, 2006

Watershed	# of Data Sites	This Year as Percent of Last Year	Average
Clark Fork ab Flint Creek	13	148	103
Flint Creek	6	136	90
Rock Creek	5	160	99
Clark Fork ab Blackfoot	21	150	97
Blackfoot	14	159	92
Upper Clark Fork Basin Summary	33	155	98

Upper Clark Fork Conditions
Precipitation For April

- Valley Precipitation
 - 231% of average
 - 159% of last year
- Mountain Precipitation
 - 130% of average
 - 106% of last year
- Water year Combined
 - 104% of average
 - 142 of last year

Basin Storage

- East Fork Reservoir
 - 102 % average
 - 128% of 2005
 - Usable Capacity1 = 15.6, this yr. = 10.0, last yr = 7.8
- Lower Willow Creek Reservoir
 - 135% of average
 - 132% of 2005
 - Usable Capacity = 4.9, this yr. = 5.0, last yr = 3.8
- Nevada Reservoir
 - 107% of average
 - 149% of 2005
 - Usable Capacity = 12.6, this yr. = 10.7, last yr = 7.2

Upper Clark Fork Forecasts

Stream Flows

May – July 2006 = 81 to 96% of average

Last year = 37 to 45% of average

Peak Flows

Lower Willow Creek inflow – May 6 to May 12

Nevada Cr. near Finn – May 13 to May 22

Blackfoot @ Bonner - May 19 to May 24

Clark Fork Above Missoula - May 22 to May 27

These forecasts assume near normal Spring Conditions. They do not account for well below (70% or less) or well above (130% or more) snow melt or spring rain.

Low Flow Forecast

Blackfoot @ Bonner

Flows Below 700 cfs

Average Precipitation - August 18 to 26

Below Average – August 11 to 20

Well Below – August 2 to 10

<http://www.mt.nrcs.usda.gov//snow/>

Flint Creek Watershed Committee - Jim Dinsmore reported that on May 2, the Granite Conservation District hosted a meeting to determine if the people in the Flint Creek Valley were interested in forming a watershed group. Warren Kellogg facilitated the meeting. The meeting participants were each asked to list their interest/concern regarding the Valley and then, after reviewing the list, if they were would support starting a Flint Creek watershed committee. The predominate concern was growth. The participants agreed that an attempt should be made to form a committee. The next meeting of the committee will be on June 5. The agenda will focus on growth in Granite County and will include a presentation by Dr. Larry Swanson of the Center for the Rocky Mountain West about County economic and demographic trends.

Upper Clark Fork River Flow Story - Gerald Mueller passed out the latest version of the outline of this report. See Appendix 2. He stated that in collecting information about the water rights change applications filed by Butte Sliver Bow and ARCO to increase instream flow in the upper Clark Fork River, that the applications had been terminated by DNRC.

DNRC Working Group Surface and Ground Water Interaction Working Group - Mike McLane reported that since the last Steering Committee meeting in April, the Working Group met once. Meeting discussion addressed what should be mitigated by augmentation, impacts to the stream

or to senior water right holders. The representative of the Department of Fish, Wildlife and Parks (DFWP) proposed that the mitigation should replace the amount of water to be consumed at or above the diversion being mitigated. Mitigating the impact on senior water rights may significantly reduce the flow of a portion of the stream, affecting the stream hydrology. Representatives of the Montana Stockgrowers, Farm Bureau, and the Montana Water Resources Association are considering this proposal.

State-USFS Reserved Water Rights Compact

Faye Bergan, an attorney with the Reserved Water Rights Compact Commission (Compact Commission), Jody Miller, an attorney in the Office of General Council of the USFS Region 1, and Eric Johnston, a USFS fisheries biologist, returned to discuss the ongoing negotiations between the Compact Commission and the USFS. The negotiating team has decided to take public comment on the approach described at the April Steering Committee meeting. USFS would forgo a reserved water rights claim for instream flows, opting instead for a water reservation with a 2007 priority date. The state would provide an expedited reservation process. For most streams, USFS would file on the amount of flow equal to the lower inflection point determined by the wetted perimeter analysis as used by DFWP. For streams with a high value fishery that are also judged by USFS to be at risk of consumptive water development, USFS would file for a water reservation amount determined by the wetted perimeter upper inflection point. In the upper Clark Fork River basin, USFS has identified four high value/high risk streams: two reaches of Rock Creek and two creeks tributary to the Blackfoot River. Mr. Johnston provided a map of these reaches to the Steering Committee. Because of the size of the map, including it with this summary is not practical. A table of the high value/high risk streams including the four just mentioned is included below as Appendix 3. For the USFS reservations, the process would presume that the purpose and need has been shown conclusively, so that no showing of purpose and need would be required of the USFS. A rebuttable presumption would be allowed the USFS reservation applications for the amount of water and the public interest. In other words for the latter, objectors could present evidence that the amount of the water requested for the instream flow was incorrect or that granting the request would not be in the public interest.

The water reservation would allow the USFS to meet four objectives:

- The USFS could protect its instream flow reservation by making calls on junior water rights holders;
- The USFS would have standing to participate in change applications affecting their reserved right;
- An applicant for a changed water right would have to show that the changed use would not adversely affect the USFS water reservation.
- The USFS would have a seat at the water management table for activities potentially affecting their reserved instream flow.

Neither the USFS nor the Compact Commission produced the analysis requested at the last Steering Committee meeting that a basin closure exemption is required to achieve these four objectives. Based on the discussion between Steering Committee members and Ms. Miller and Ms. Bergan, it appears that some sort of water right would be necessary for the USFS to achieve the first and third objective. The USFS could probably object now to water right changes. There

may be other ways such as participating in water shed groups like the Steering Committee for the USF to have a seat at the water management table. The USFS also has the authority and discretion to protect its water resources to the extent they would be affected by activities on or crossing USFS lands through its special use permitting authority.

Ms. Bergan argued that allowing water reservations in return for the USFS forgoing pursuit of reserved water rights for instream flows with a priority date determined by the creation of the national forests would be good for Montana water users.

Ms. Bergan stated that the detailed proposal for the compact language will be released for public comment on June 2. The negotiating team including the USFS and Compact Commission representatives will hold a formal hearing on the proposal sometime after its release. Ms. Bergan asked the Steering Committee for advice about how to reach out to people in the upper Clark Fork. Steering Committee members pointed out that hearings/meetings on the draft of the *Upper Clark Fork River Basin Water Management Plan* including the basin closure were held at Anaconda, Deer Lodge, Greenough, Avon, Drummond, Philipsburg, and Missoula.

Ms. Bergan and Ms. Miller agreed to come to the next Steering Committee meeting to explain the Compact Commission's and USFS' detailed proposal.

Steering Committee Work Plan

The Steering Committee continued the discussion of its work plan for the next year (2006-2007) begun at its April meeting. It decided to pursue the following topics.

- Continue to facilitate discussion of the post-adjudication paper and refine the future options contained in it.
- Consider how the Smith River Supreme Court decision will affect ground and surface water development in the upper Clark Fork River basin.
- Continue to consider and discuss with basin water users, the proposed exemption to the basin closure for USFS instream flow water reservations and any other proposed exemptions.
- Review the basin ground water characterization work of the Montana Bureau of Mines and Geology.
- If the settlement occurs in the NRD law suit regarding the mainstem operable unit, then:
 - Continue mainstem dewatering mitigation project; and
 - Initiate project to reconnect the Clark Fork River to its old channel and flood plain.

Steering Committee Membership

The Steering Committee agreed that its facilitator should write to the Granite County Commission seeking a replacement for Eugene Manley. Other individuals that Mr. Mueller should contact to determine their interest in serving on the Steering Committee include:

- A representative of the USFS, perhaps the new Philipsburg District Ranger;
- Senator Dave Lewis, who represents portions of Lewis & Clark and Powell Counties;
- Dale Mahlum, a former Senator who represented Missoula County;
- The new DFWP fishery biologist in Deer Lodge; and
- A representative of DEQ.

Public Comment

There was no public comment.

Next Meeting

The next meeting was scheduled for Wednesday, June 28, 2006 in Deer Lodge.

Appendix 1

See Power Point.

Appendix 2

Upper Clark Fork River Basin Steering Committee

C/O Gerald Mueller
440 Evans
Missoula, MT 59801
(406)543-0026

MEMORANDUM

Date: December 29, 2005

To: File

From: Gerald Mueller

RE: Meeting with Dennis Workman Regarding the Upper Clark Fork River Flow Story

Dennis and I reviewed the story outline, and he offered the following ideas:

Introduction

- Considerable existing focus on cleaning up the upper River.
- Purpose of this report - tell the story of the river from a flow, fishery, and water user perspective.

Vision

- Review Ken Knudsen's report of the early 80's comparing the upper Clark Fork River with the Madison and other Montana rivers. Call Glen Philips to get a copy of the report.
- River should support 1,000 -1,500 trout/per mile based on Dennis' professional judgement of rivers of similar size and productivity. Trout would be brown trout plus some increase in rainbow numbers assuming a successful metals remediation. With the removal of Milltown Dam and metals remediation, the upper river should also support cutthroat and bull trout.
- Continued source of water for agriculture use.
- Dewatering will prevent realizing this vision.

Current Instream Flow Status

- Existing hydryograph - see January 2004 management plan for current hydrograph.
- Frequency & amount of dewatering - see Workman 2002 report for frequency, amount and location of dewatering.
- Places where flows are limiting factors
- Data gap - need wetted perimeter calculation at Sager Lane.
- Pictures - contact Mike Roberts and Dennis.
- Map

Existing Water Rights, Use and Infrastructure

- Description of existing use - agriculture, industrial and recreation (immediately below the bonds is a brown trout fishery).
- List of rights/claims to identify existing demand/agriculture need - see previous Workman reports.

- Map of diversions - contact Mike McLane.
- Needs - measure diversions, e.g. Whalen, Johnson, Windy Mountaininn/Circle K, & Kohrs Manning ditches.
- Flow measuring points - USGS gauges at Warm Springs Creek, Galen, Deer Lodge (check with Mel White of USGS to see who pays O&M); aqua rods at Racetrack Bridge & Sager Lane.

Fishery

- Mainstem function - adult habitat; little spawning activity currently due to metals.
- Status - get fish per mile & redd count data from Pat Saffel.
- Needs - wetted perimeter data for Sager Lane and connectivity inventory of all tributaries with the mainstem.

Opportunities to Improve Stream Flows

- ARCO rights to Silver Lake storage - contact Stan Bradshaw (Laurie Zeller) & Matt Williams (Robin Bullock).
- Ditch losses - Mike Roberts report.
- Drought plan & local watershed committee.

What Is Necessary to Realize the Opportunities

- Land owner cooperation - temporary or long-term leases, drought plan.
- Water commissioner to protect existing water rights and instream flow.
- Funding to secure & protect instream flows - NRD, Furture Fisheries, TU, Montana Water Trust, other.

Appendix 3

See spread sheet.